



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS-R8-ES-2023-0087; FXES11140800000-234-FF08EVEN00]

Endangered and Threatened Wildlife and Plants; Draft Habitat Conservation Plan and Draft Categorical Exclusion; Monterey County Water Resources Agency Salinas River Lagoon and Sandbar Management Project, Monterey County, CA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft habitat conservation plan (HCP) and draft low effect screening form and environmental action statement (draft screening form) for activities associated with an application for an incidental take permit (ITP) under the Endangered Species Act. The ITP would authorize take of the tidewater goby and western snowy plover incidental to activities associated with management of the Salinas River Lagoon in Monterey County, California. The applicant developed the draft HCP as part of their application for an ITP. The Service prepared a draft low-effect screening form and environmental action statement in accordance with the National Environmental Policy Act to evaluate the potential effects to the natural and human environment resulting from issuing an ITP to the applicant. We invite the public and local, State, Tribal, and Federal agencies to comment on these documents.

DATES: Written comments should be received on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: *Obtaining Documents:* The documents this notice announces, as well as any comments and other materials that we receive, will be available for public inspection online in Docket No. FWS-R8-ES-2023-0087 at <https://www.regulations.gov>. ***Submitting***

Written Comments: Please send us your written comments using one of the following methods:

- *Online:* <https://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-R8-ES-2023-0087.
- *U.S. mail:* Public Comments Processing; Attn: FWS-R8-ES-2023-0087; U.S. Fish and Wildlife Service; MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Mark Ogonowski, Senior Fish and Wildlife Biologist, by email or U.S. mail (see **ADDRESSES**), or via phone at (805) 677–3350. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft habitat conservation plan (HCP) and draft low-effect screening form and environmental action statement (draft screening form) for activities associated with an application for an incidental take permit (ITP) under section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The ITP would authorize take of the tidewater goby (*Eucyclogobius newberryi*) and the Pacific Coast distinct population segment (DPS) of the western snowy plover (*Charadrius nivosus nivosus*) incidental to activities associated with management of the Salinas River Lagoon and sandbar in Monterey County, California, to prevent flooding of adjacent lands. The applicant developed the draft HCP as part of their application for an ITP. In addition, the HCP anticipates impacts to the federally threatened Monterey spineflower (*Chorizanthe pungens* var. *pungens*), and proposes avoidance and

minimization measures for all three covered species and mitigation for unavoidable temporary loss of suitable habitat. The Service prepared a draft screening form in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) to evaluate the potential effects to the natural and human environment resulting from issuing an ITP and implementing the draft HCP in order to determine if the action fits within the criteria for a categorical exclusion under NEPA. We invite public comment on all of these documents.

Background

The Service listed the Monterey spineflower as threatened on February 4, 1994 (59 FR 5499), tidewater goby as endangered on March 7, 1994 (59 FR 5494), and Pacific Coast DPS of the western snowy plover as threatened on March 5, 1993 (58 FR 12864). Section 9 of the ESA prohibits “take” of fish and wildlife species listed as endangered (16 U.S.C. 1538), where take is defined to include the following activities: “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532). The take prohibitions of section 9 are extended to species listed as threatened at the discretion of the Secretary of the Department of the Interior and were extended at listing to the western snowy plover DPS.

Under section 10(a)(1)(B) of the ESA (16 U.S.C. 1539(a)(1)(B)), we may issue permits to authorize take of listed fish and wildlife species that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing incidental take permits for endangered and threatened species are in the Code of Federal Regulations (CFR) at 50 CFR 17.22 and 17.32, respectively. Issuance of an ITP also must not jeopardize the existence of federally listed fish, wildlife, or plant species, pursuant to section 7 of the ESA and 50 CFR 402.02. The permittee would receive assurances under our “No Surprises” regulations (50 CFR 17.22(b)(5) and 17.32(b)(5)).

The Service designated revised critical habitat for the tidewater goby on February 6, 2013 (78 FR 8746). The project site includes 131.7 acres (ac) of tidewater goby critical habitat unit MN-2, representing approximately 28 percent of unit MN-2 and 1 percent of critical habitat designated for the species rangewide. The Service designated revised critical habitat for the Pacific Coast DPS of the western snowy plover on June 19, 2012 (77 FR 36728). The project site includes 95.2 ac of western snowy plover critical habitat unit CA-22, representing approximately 10 percent of unit CA-22 and less than 1 percent of critical habitat designated for the Pacific Coast DPS rangewide. The Service designated revised critical habitat for the Monterey spineflower on January 9, 2008 (73 FR 1525). There is no Monterey spineflower critical habitat within the project site.

Proposed Activities

The applicant has applied for a permit for incidental take of the tidewater goby and the Pacific Coast DPS of the western snowy plover. The take would occur in association with activities implemented periodically to manage the water surface elevation in the Salinas River Lagoon in Monterey County, California, during storm events in order to avoid or minimize flooding of adjacent agricultural lands and residences. Project activities would include moving a bulldozer or excavator onto the beach on the seaward side of the Salinas River Lagoon to excavate a pilot channel in the lagoon sandbar. Rising flood waters would then break through a sand plug left in the channel, connecting the Salinas River to the ocean and preventing a further rise in lagoon elevation. The applicant anticipates that up to five breaching events would be conducted during the 5-year project period and all project effects are expected to be temporary.

The HCP includes avoidance and minimization measures for the Monterey spineflower, tidewater goby, and Pacific Coast DPS of the western snowy plover and mitigation for unavoidable temporary loss of habitat for each species. As mitigation for temporary loss of up to 0.19 ac of Monterey spineflower habitat for each breaching event,

the applicant proposes to fund the removal of invasive species on 1 ac of suitable habitat on Salinas River State Beach. As mitigation for expected take of up to five tidewater gobies during each breaching event, the applicant would fund two research projects developed in collaboration with the Service to provide a greater understanding of tidewater goby in the Salinas River Lagoon and larger Salinas Valley to support recovery goals:

- A study of goby reproductive patterns and population dynamics in the Lagoon
- A regional eDNA analysis of goby distribution in the Salinas River and connected waterways to evaluate occupancy and the potential presence of nearby source or refuge populations

As mitigation for expected take of up to one western snowy plover nest (three eggs or three chicks) over the 5-year permit term and temporary loss of up to 0.35 ac of western snowy plover habitat for each breaching event, the applicant proposes to contribute funding to California State Parks' breeding season habitat management and public education and outreach programs at Salinas River State Beach, which may include installation of symbolic fencing and signage around nesting areas, interpretive signs at major trailheads, and animal-proof trash receptacles at trailheads and beach access points, and direct public outreach.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32) and National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

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